

# Notice of Allowability

Application No.

09/084,441

Examiner

Michael Peffley

Applicant(s)

LIN, J. T.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Apr 11, 2001.
2. ☒ The allowed claim(s) is/are 1-24, 26, 28, 30, 32, 35-41, 43-49, 53-55, 57, 58, 60, 63-72, 75, 76, 78, 80-83, 85, 87-91, 93-95, 97, 98 and 105-119
3. ☒ The drawings filed on 27 May 1998 are acceptable as formal drawings.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f)
  - a) ☐ All b) ☐ Some\* c) ☐ None of the
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17 2(a))

\* Certified copies not received: \_\_\_\_\_.

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION. This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).**

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the examiner
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No \_\_\_\_\_

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.**

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER) if applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No <u>27</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other  |

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**Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. William Bollman on April 11, 2001.

The application has been amended as follows:

\*Claim 69 (original), line 11: after "pulse", the following has been added

~~whereby a laser pulse is delivered which is low power at said tissue~~

\*Claim 53 (original), line 2: "48" has been replaced with -69-

\*Claim 53 (original): the subject matter of line 3 has been deleted and replaced

with the following: ~~said pulse delivered at said tissue has an energy of 10 mJ per pulse~~

~~or less~~

**Reasons for Allowance**

The following is an examiner's statement of reasons for allowance: this supplemental examiner's amendment addresses an error in the previous Office action mailed February 26, 2001. In the February 26, 2001 communication (Notice of Allowability), the examiner mistakenly indicated that all the claims recited a laser having an energy level of no greater than 10 mJ per pulse. Claim 69 had no such limitation. In further considering the prosecution history, the examiner has deemed that the inclusion

54 48

of the particular energy level of the laser pulse is not necessary in the claims to avoid a recapture issue. However, claim 1 of the '679 patent had been amended to specifically recite a "low power laser", and that subject matter must be present in the instant claims to avoid recapture. As such, claim 69 has been amended to specifically include this subject matter.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on M-F (7:00-4:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda M Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

09/084,441-1447-101  
FOR THE TELEPHONE

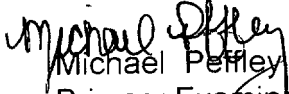
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
Michael Petley  
Primary Examiner  
Art Unit 3739

mp  
April 13, 2001

09/084,441-00000000



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

**NOTICE OF ALLOWANCE AND ISSUE FEE DUE**

**\*\*CORRECTED COPY\*\***

020736

QM41/0430

FARKAS & MANELLI

2000 M STREET NW SUITE 700

WASHINGTON DC 20036-3307

APPLICATION NO	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/084,441	05/27/98	091	PEFFLEY, M	3739 04/30/01
First Named Applicant	LIN, 35 USC 154(b) term ext. = 0 Days.			

TITLE OF INVENTION OPTHALMIC SURGERY METHOD USING NON-CONTACT SCANNING LASER.

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
62-575	606-005.000	297	UTILITY	YES	\$620.00	07/30/01

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number:  
Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

PATENT AND TRADEMARK OFFICE COPY

## PART B—ISSUE FEE TRANSMITTAL

Complete and mail this form, together with a check for fees, to:

Box ISSUE FEE  
Assistant Commissioner for Patents  
Washington, D.C. 20231

## Match &amp; Return

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

020736  
FARKAS & MANELLI  
2000 M STREET NW SUITE 700  
WASHINGTON DC 20036-3307

QM12/02265 P



Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

## Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

5/27/98

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FLING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART. UNIT	DATE MAILED
09/084,441	05/27/98	091	PEFFLEY, M	3739 02/26/01
First Name of Applicant	LIN, 35 USC 154(b) term ext. = 0 Days.			

TITLE OF INVENTION

OPHTHALMIC SURGERY METHOD USING NON-CONTACT SCANNING LASER.

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
3 62-575	606-005.000	Z97	UTILITY	YES NO	\$628.00 \$1240.00	05/29/01

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. William H. Bollman

2. \_\_\_\_\_

3. \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)  
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE LaserSight Technologies, Inc.

(B) RESIDENCE: (CITY &amp; STATE OR COUNTRY) Winter Park, FL

Please check the appropriate assignee category indicated below (will not be printed on the patent)

- ☐ Individual ☒ corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

- ☒ Issue Fee  
☒ Advance Order - # of Copies 1

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER 50-0687

(ENCLOSE AN EXTRA COPY OF THIS FORM) (Order No. 62-575)

- ☒ Issue Fee  
☐ Advance Order - # of Copies

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

William H. Bollman

(Date)

William H. Bollman, Reg. 36,457

3/1/01

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

03/05/2001 CCHAU2 00000020 09084441

01 FC:142  
02 FC:5611240.00 OP  
3.00 OP

TRANSMIT THIS FORM WITH FEE